inspectors of elections refused to permit him to vote at a stockholders' meeting on the grounds that he was neither a registered stockholder nor the holder of a valid proxy, since the transfer of the stock by his principal revoked the proxy. On an application for summary investigation of the election, *held,* the refusal of the inspectors to allow K to vote was erroneous and a new election would be ordered. *Thompson* v. *Blaisdell* (N. J. Sup. Ct. 1919) 107 Atl. 405.

In general, the party registered as owner of corporate stock may vote it, *In the Matter of Barker* (N. Y. 1831) 6 Wend. 509 (trustee); *Cohen* v. *Big Stone Iron Co.* (1910) 111 Va. 468, 69 S. E. 359 (pledgor); *Canadian Improvement Co.* v. *Lea* (1908) 74 N. J. Eq. 234, 69 Atl. 455 (pledgee), while an unrecorded transferee has, as against the company, merely the right to have his stock transferred on the books, and until then may not vote. *Wentworth Co.* v. *French* (1900) 176 Mass. 442, 57 N. E. 789; see *People ex. rel. Probert* v. *Robinson* (1883) 64 Cal. 373, 375, 1 Pac. 156. So an assignor of stock retains the right of voting until the sale is recorded, *People ex rel. Probert* v. *Robinson, supra*; *State ex rel. White* v. *Ferris* (1875) 42 Conn. 560; but see *Commonwealth ex rel. Gordon* v. *Woodward* (Pa. 1860) 4 Phila. 124, and it would seem to follow that he could give a proxy. Although a proxy, previously given, might be revoked by sale of the stock to a third party, see *Ryan* v. *Seaboard etc. R. R.* (C. C. 1898) 89 Fed. 397, 406; but see *In re S. & S. Mfg. & Sales Co.* (D. C. 1917) 246 Fed. 1005, the reason for such a rule would not exist where the transferee and the holder of the proxy were identical and there was no dispute between the transferor and the transferee as to who should vote. See *State ex rel. White* v. *Ferris, supra,* at p. 569.

SURETYSHIP—GUARANTY OF PAYMENT OR COLLECTIBILITY.—The defendant wrote upon a demand note at the time of its delivery to the payee: "I hereby guarantee payment of within note and waive demand, protest and notice". In an action by the payee against the defendant brought more than six years after the delivery of the note, *held,* that the action was barred by the statute of limitations which began to run in favor of the defendant upon the delivery of the note. *Homewood People's Bank* v. *Hastings* (Pa. 1919) 106 Atl. 308.

If the note had not been payable on demand but at a fixed or determinable future time and the Pennsylvania court had followed its previous decisions, it would have interpreted the defendant's promise as a guaranty of collectibility and held that the plaintiff's cause of action did not arise until he had exhausted his remedies against the maker. In that state "I guarantee payment" is a guaranty of collectibility; *Isett* v. *Hoge* (Pa. 1833) 2 Watts 128; *Mizner* v. *Spier* (1880) 96 Pa. 533; *Zahm* v. *First Nat'l Bank of Lancaster* (1883) 103 Pa. 576; but "I guarantee payment when due" is a guaranty of payment. *Campbell* v. *Baker* (1863) 46 Pa. 243; *Roberts* v. *Riddle* (1875) 79 Pa. 468; *McBeth* v. *Newlin* (Pa. 1884) 15 Wkly. Notes Cas. 129; *Hartley Silk Mfg. Co.* v. *Berg* (1911) 48 Pa. Sup. Ct. 419; *Westinghouse E. & Mfg. Co.* v. *Wilson* (1916) 63 Pa. Sup. Ct. 294. But the Court seized upon the distinction that the note was payable upon demand and interpreted the defendant's promise as a guaranty of payment. It is difficult to see the basis for the distinction, though it has been taken in some other cases. *Lane* v. *Levillian* (1842) 4 Ark. 76; *Reed* v. *Cutts* (1831) 7 Me. 186. The decision doubtless indicates

a tendency of the Pennsylvania courts in all cases to give the words "I guarantee payment" the same meaning that is attached to them in other jurisdictions, *viz.*, "I promise to pay if the principal debtor defaults". *Bloom* v. *Warder* (1882) 13 Neb. 476, 14 N. W. 395; *First Nat'l Bank of Hibbing* v. *Schirmer* (1916) 134 Minn. 387, 159 N. W. 800; *Miller* v. *Northern Brewery Co.* (D. C. 1917) 242 Fed. 164; *Galbraith* v. *Shores-Mueller Co.* (1918) 178 Ky. 688, 199 S. W. 779; *Pfeiffer* v. *Crossley* (1918) 91 N. J. L. 433, 103 Atl. 1000, *aff'd* (1919) 92 N. J. L. 638, 106 Atl. 892; 12 R. C. L. § 13; Stearns, Suretyship (2nd ed.) §§ 61, 62.

TRUSTS—CONSTRUCTIVE TRUST—USE OF TRUST FUND BY GUARDIAN.—Where a guardian borrowed money from X and with the loan purchased land from Y, taking title to himself, and subsequently diverted trust funds in his possession to repay the loan, *semble,* equity will impress a trust character on the land if the guardian at the time he acquired title had the intention subsequently to divert his ward's funds to repay the loan. *Hardy* v. *Hardy* (Ga. 1919) 100 S. E. 101.

The general rule is that a trust will not arise on other than the state of facts existing when the property is acquired. *Dick* v. *Dick* (1898) 172 Ill. 578, 50 N. E. 142; *Woodside* v. *Hewel* (1895) 109 Cal. 481, 42 Pac. 152; see *Botsford* v. *Burr* (N. Y. 1817) 2 Johns. Ch. *405, *409; 1 Perry, Trusts (6th ed.) § 133. After the legal title has once vested in the grantee of a deed, a trust cannot be raised so as to divest that legal estate by the subsequent application of the funds of a third person to pay the unpaid purchase money. *Myers* v. *Myers* (1900) 47 W. Va. 487, 35 S. E. 868; *French* v. *Sheplor* (1882) 83 Ind. 266; *McCall* v. *Flippin* (1872) 61 Tenn. 161; *cf. McDevitt* v. *Frantz* (1889) 85 Va. 740, 751, 8 S. E. 642. In the principal case it would hardly be contended that a trust was impressed upon the land immediately upon its purchase by the guardian, since he might never have carried into effect his intention of diverting the *cestui's* funds to repay the loan. But it is maintained that the dictum in the instant case is nevertheless correct, since the injury to the *cestui,* which became cognizable by the courts only when his funds were diverted, had its inception in the act of the trustee in acquiring the land, coupled with his then intent to defraud the *cestui.* There is an analogous doctrine in many cases of conspiracy, for although it has often been held that conspiracy exists as a substantive tort, *Evans* v. *Freeman* (C. C. 1905) 140 Fed. 419; *Collins* v. *Cronin* (1887) 117 Pa. 35, 11 Atl. 869; see *Patnode* v. *Westenhaver* (1902) 114 Wis. 460, 90 N. W. 467; 5 Columbia Law Rev. 233, it seems that the right of action does not arise until some act injuring the plaintiff has been committed in furtherance of the objects of the conspiracy. *Schwab* v. *Mabley* (1882) 47 Mich. 572, 11 N. W. 390; see *Fleitmann* v. *United Gas Improvement Co.* (1916) 174 App. Div. 781, 783, 161 N. Y. Supp. 650. And there is no novelty in the doctrine of relating back to a pre-existing intent an act insufficient in itself to cause the impression of a trust. For where by statute an oral declaration of trust is void as to realty but valid as to personalty, if land is conveyed on parol trust to hold the proceeds, and the land is sold, the trust will be enforced as to the proceeds of the sale. *Chace* v. *Gardner* (1917) 228 Mass. 533, 117 N. E. 841; see *Watson* v. *Payne* (1910) 143 Mo. App. 721, 128 S. W. 238; 18 Columbia Law Rev. 375.